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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/791,430 | 03/01/2004 | Thomas R. Magnuson | 34743/0004 | 5397 |
| 30983 | 7590 | 12/01/2005 | EXAMINER | |
| MCDONOUGH, HOLLAND & ALLEN 555 CAPITOL MALL 9TH FLOOR SACRAMENTO, CA 95814 | | | ALIE, GHASSEM | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3724 | |

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/791,430 | MAGNUSON ET AL. |
| | Examiner | Art Unit |
| | Ghassem Alie | 3724 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 41-55 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 41-55 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 March 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show that the brake release handle secured to a chain saw, the front wall of the brake release handle facing the saw chain, an extension that is engageable with the braking mechanism of the housing, the brake release handle located at a slight distance from the handle, between the handle and the saw chain, and the brake release handle pivotally journaled by a bearing or support part secured thereto as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to under 37 CFR 1.71 for not disclosing how the brake release is secured to a chain saw handle. The specification also fails to teach how the front wall of the brake release handle faces the saw chain. It is not clear how this specific type of brake release is secured to the handle of the chain saw and what specific area of the chain saw and the area around the chain saw are illuminated by the light source of the brake release. The specification also fails to teach the structure that attaches the brake release to the chain saw.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 41-55 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 1, the disclosure fails to teach how the release brake of the instant invention can be used in a motor chain saw. It is not clear how this specific type of brake release is secured to the handle of the chain saw and what specific area of the chain saw and the area around the chain saw are illuminated by the light source of the brake release. The disclosure also fails to teach the structure that attaches the brake release to the chain saw.

It is not how the brake release of the instant invention works and how it structurally relates to a motor chain saw.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 41, 42, 44, 46, 49, 50, and 52, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Didato (5,863,112). Regarding claim 41, Didato teaches a brake release including a brake release handle 20 having a front wall, a rear wall, and a light source 22 wherein the light source is secured within the brake release handle 20 and is adapted to emanate from the front wall. The wall that includes a lens 21 defines the front wall. See Figs. 1-5 and col. 2, lines 19-67 in Didato.

Regarding claims 42, 44, 46, 49, 50, 52, Didato teaches everything noted above including that the front wall includes a translucent material 21. Didato also teaches that the translucent material could be plastic or glass. Didato also teaches that a power source 13 for supplying electricity to the light source. Didato also teaches that the power source is located within the brake release handle. Didato also teaches that the light source is a light emitting diode. See col. 2, lines 1-54 in Didato.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

8. Claims 43, 47, 48, 51, 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Didato in view of Toth et al., hereinafter Toth, or Swenson (4,588,387). Didato teaches everything noted above, but Didato explicitly does not teach that the light source is affixed to a plate secured within the release handle, the plate is attached to an interior surface of the rear wall, the power source is a battery, the light source includes two or more light emitting diodes, the brake release handle further includes a switch for activating the light source, and the switch is located in the rear wall. However, the use of the light source with a switch, a battery, more than two light emitting diodes are old and well known such as taught by Toth or Swenson. Toth teaches a light source 30 affixed to a plate secured within a handle 14, the plate is attached to an interior surface of a the rear wall, a power source 20 as a battery, the light source includes two or more light emitting diodes, the handle further includes a switch 26 for activating the light source, and the switch is located in the rear wall. Toth also teaches that cover 32, which is defined as a front wall, reversibly attached to the handle 14. See Figs. 1-4 and col. 2, lines 43-67 and col. 3, lines 1-67 in Toth. Swenson also teaches a light source 26 affixed to a plate 14 secured within a handle 12, 16, the plate is attached to an interior surface of a the rear wall, a power source 30 as a battery, the light source includes two or more light emitting diodes, the handle further includes a switch 32 for activating the light source, and the switch is located in the rear wall. See Figs. 1-3 and col. 3, lines 1-50 in Swenson. It would have been obvious to a person of ordinary skill in the art to provide Didato's light source with the battery, switch, two or more emitting diodes, and a plate secured within the brake release handle, as taught by Swenson or Toth, in

order to illuminate more area around the apparatus and use an alternative power source that can be controlled by a switch other than ignition switch.

9. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Didato in view of Budde et al. (4,774,637), hereinafter Budde. Didato teaches everything noted above including that the translucent material is glass or plastic. Didato does not explicitly teach that the translucent material is plexiglass. However, the use of translucent material made from plexiglass for covering a light source is well known in the art such as taught by Budde. Budde teaches a light source 29 having a cover 22 made from plexiglass. See col. 7, lines 16-39 in Budde. It would have been obvious to a person of ordinary skill in the art to provide Didato's light source with the translucent cover that is made from plexiglass, as taught by Budde, in order to cover the light source with another alternative translucent cover that works the same as the other translucent covers.

Response to Amendment

10. Applicant's arguments with respect to claims 41-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lin (6,439,754), Shores (3,529,847), Chen (5,467,256), Lin (5,772,308), Jau (6,086,217), and Smith (4,833,782) teach an apparatus including a light source for illuminating area around the apparatus.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at

Application/Control Number: 10/791,430
Art Unit: 3724

Page 8

866-217-9197 (toll-free).



GA/ga

November 23, 2005

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